



DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA-2018-0107 Notice 1]

Weldon, Receipt of Petition for Decision of Inconsequential Noncompliance

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation (DOT).

ACTION: Receipt of petition.

SUMMARY: Weldon, a Division of Akron Brass Company, has determined that certain LED backup lamps do not fully comply with Federal Motor Vehicle Safety Standard (FMVSS) No. 108, *Lamps, Reflective Devices, and Associated Equipment*. Weldon filed a noncompliance report dated November 7, 2018, and subsequently petitioned NHTSA on November 30, 2018, for a decision that the subject noncompliance is inconsequential as it relates to motor vehicle safety. This notice announces receipt of Weldon's petition.

DATES: Send comments on or before **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*]**.

ADDRESSES: Interested persons are invited to submit written data, views, and arguments on this petition. Comments must refer to the docket and notice number cited in the title of this notice and be submitted by any of the following methods:

- **Mail:** Send comments by mail addressed to the U.S. Department of Transportation, Docket Operations, M-30, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue, S.E., Washington, DC 20590.
- **Hand Delivery:** Deliver comments by hand to the U.S. Department of Transportation, Docket Operations, M-30, West Building Ground Floor, Room

W12-140, 1200 New Jersey Avenue, S.E., Washington, DC 20590. The Docket Section is open on weekdays from 10 am to 5 pm except for Federal holidays.

- Electronically: Submit comments electronically by logging onto the Federal Docket Management System (FDMS) website at <https://www.regulations.gov/>. Follow the online instructions for submitting comments.
- Comments may also be faxed to (202) 493-2251.

Comments must be written in the English language and be no greater than 15 pages in length, although there is no limit to the length of necessary attachments to the comments. If comments are submitted in hard copy form, please ensure that two copies are provided. If you wish to receive confirmation that comments you have submitted by mail were received, please enclose a stamped, self-addressed postcard with the comments. Note that all comments received will be posted without change to https://www.regulations.gov, including any personal information provided.

All comments and supporting materials received before the close of business on the closing date indicated above will be filed in the docket and will be considered. All comments and supporting materials received after the closing date will also be filed and will be considered to the fullest extent possible.

When the petition is granted or denied, notice of the decision will also be published in the **Federal Register** pursuant to the authority indicated at the end of this notice.

All comments, background documentation, and supporting materials submitted to the docket may be viewed by anyone at the address and times given above. The documents may also be viewed on the Internet at https://www.regulations.gov by following the online instructions for

accessing the docket. The docket ID number for this petition is shown in the heading of this notice.

DOT's complete Privacy Act Statement is available for review in a Federal Register notice published on April 11, 2000, (65 FR 19477-78).

SUPPLEMENTARY INFORMATION:

I. Overview: Weldon has determined that certain LED backup lamps do not fully comply with paragraph S14.4.1 of FMVSS No. 108, *Lamps, Reflective Devices, and Associated Equipment* (49 CFR 571.108). Weldon filed a noncompliance report dated November 7, 2018, pursuant to 49 CFR part 556, *Defect and Noncompliance Responsibility and Reports*, and subsequently petitioned NHTSA on November 30, 2018, for an exemption from the notification and remedy requirements of 49 U.S.C. Chapter 301 on the basis that this noncompliance is inconsequential as it relates to motor vehicle safety, pursuant to 49 U.S.C. 30118(d) and 30120(h) and 49 CFR part 556, *Exemption for Inconsequential Defect or Noncompliance*.

This notice of receipt of Weldon's petition is published under 49 U.S.C. 30118 and 30120 and does not represent any Agency decision or other exercise of judgment concerning the merits of the petition.

II. Equipment Involved: Approximately 6,315 LED backup lamps manufactured between June 6, 2018, and June 25, 2018, are potentially involved.

III. Noncompliance: Weldon explains that the noncompliance is that the subject LED backup lamps do not meet the requirements for color as required by paragraph S14.4.1 of FMVSS No. 108. Specifically, the subject LED backup lamps, when tested in accordance with the Tristimulus Method, fell slightly outside the required boundaries for white light.

IV. Rule Requirements: Paragraph S14.4.1 of FMVSS No. 108 includes the requirements relevant to this petition. The color of a sample device must comply when tested by either the Visual Method or the Tristimulus Method.

V. Summary of Weldon's Petition: The following views and arguments presented in this section, V. Summary of Weldon's Petition, are the views and arguments provided by Weldon. They have not been evaluated by the Agency and do not reflect the views of the Agency. Weldon described the subject noncompliance and stated their belief that the noncompliance is inconsequential as it relates to motor vehicle safety.

In support of its petition, Weldon submitted the following reasoning:

1. Weldon first became aware of a potential issue with the white color parameters in late September 2018, when the customer observed that the vehicle backup lamps, when viewed side by side in production, appeared to have a slightly different color hue and then brought the issue to Weldon's attention and requested that Weldon test the color of the lamps. Samples were sent to a third-party laboratory for colorimetry testing. Thereafter, Weldon received the third-party laboratory's test results, which it analyzed and considered. The lamps at issue were tested using the proper colorimetry testing using the Tristimulus Method. An average of three readings of the lamps were taken at the design voltage. The LED functions were measured at $t = 0$ and $t = 10$ minutes. The result found that the supposed white color lamp fell slightly outside the required boundaries for white light.
2. Backup lamps are intended to signal to other drivers that a vehicle is in reverse gear. Weldon says that despite the slight deviation from the white color boundaries, the backup lamps, when engaged, are fully illuminated and are still sufficiently white in

color that they will not create confusion (at any distance) that the truck is in the reverse gear. The lamps still comply with the luminous intensity photometry requirements of FMVSS No. 108. Even with the color specification noncompliance, these backup lamps fulfill the intended purpose of FMVSS No. 108 as it applies to signal lamps, namely to ensure signals are understood by other road users.

3. Weldon stated that NHTSA has long recognized that some deviations from the FMVSS pose little or no safety risk. In applying this recognition to particular situations, the Agency considers whether a deviation gives rise to “a significantly greater risk than...in a compliant vehicle.” *See* 69 FR 19897-990 (April 14, 2004). The vehicles for which the lamps have been supplied have full backup lamp functionality. This creates no safety risk, as the backup lamps are fully functional and remain completely illuminated. Further, the difference in color white light is very slight, so much so that the color is nearly imperceptible to the human eye at any distance. The lamps are sufficiently visible, effective, would not be confused with any other signal lamp, and do not create a safety risk.
4. In considering past petitions involving FMVSS No. 108, Weldon mentions that NHTSA has previously considered and found deviations from the standard that were not perceptible to the human eye and/or did not affect the illumination or brightness of the lamp were inconsequential to motor vehicle safety. NHTSA has found that deviation from the photometric parameters were inconsequential to safety when the overall brightness of the equipment was near to the required parameters to not be perceptible to the human eye. NHTSA has historically employed a rule that a margin of up to 25 percent deviation from FMVSS No. 108 photometric intensity

requirements is reasonable to grant a petition of inconsequentiality for noncompliant signal lamps. *See* “Driver Perception of Just Noticeable Differences of Automotive Signal Lamp Intensities” (herein, “UMTRI Report”), DOT HS 808 209, Sept. 1994 (a study sponsored by NHTSA that demonstrated that a change in luminous intensity of 25 percent or less is not noticeable by most drivers and is a reasonable criterion for determining the inconsequentiality of noncompliant signal lamps). NHTSA has stated that it has granted such inconsequentiality petitions when it was “confident that the noncompliant signal lights would still be visible to nearby drivers.” *See* 66 FR 38341 (July 23, 2001). In fact, NHTSA has stated that “because signal lighting is not intended to provide roadway illumination to the driver, a less than 25 percent reduction in light output at any particular test point is less critical.” *Id.* NHTSA views the UMTRI Report’s findings to be “mostly analogous to those of the signal lighting research.” *Id.* NHTSA granted a petition for a determination of inconsequentiality to General Motors for turn signals that met the photometry requirements in just three of four test groups and produced, on average, 90 percent of the required photometric intensity. *See* 61 FR 1663 (Jan. 22, 1996). NHTSA has granted similar petitions for lamps that do not comply with photometric requirements in other slight ways.

5. Conversely, NHTSA has denied inconsequentiality petitions in cases where headlamps do not meet the minimum FMVSS requirements, thus, causing an increased safety risk. *See* 66 FR 38341 (July 23, 2001) (denying petition where points on the headlamp used for overhead sign illumination were substantially below the photometric minimum values, which impaired driver visibility). The purpose of

headlamps, as opposed to rear signal lighting, is roadway illumination, which is crucial to road safety. Insufficient roadway illumination from nonconforming headlamps creates an increased safety risk to the public and thus is held to a higher standard than the 25 percent deviation of the UMTRI Report. *Id.* Backup indicator taillamps, unlike headlamps, do not illuminate the road for drivers, and thus deviation from the FMVSS No. 108 color requirement of the standard does not impede visibility. The backup lamps in question are still entirely visible (that is, the brightness of the tail lamps is not affected) and still appear white to the human eye at any distance, as demonstrated by Weldon's findings. The lamps fulfill the intended purpose of FMVSS No. 108 as it applies to signal lamps, which is to make a driver's operating signals understood. Despite the slight deviation from the white light boundaries, the backup lamps would be understood to signal that the truck is in reverse gear and create no additional safety risk and fulfill the intent of FMVSS No. 108.

6. Weldon has not received any reports related to the performance of the white LED lamps from the field and is not aware of any accidents or injuries related to the issue.

Weldon concluded by expressing the belief that the subject noncompliance is inconsequential as it relates to motor vehicle safety, and that its petition to be exempted from providing notification of the noncompliance, as required by 49 U.S.C. 30118, and a remedy for the noncompliance, as required by 49 U.S.C. 30120, should be granted.

NHTSA notes that the statutory provisions (49 U.S.C. 30118(d) and 30120(h)) that permit manufacturers to file petitions for a determination of inconsequentiality allow NHTSA to exempt manufacturers only from the duties found in sections 30118 and 30120, respectively, to

notify owners, purchasers, and dealers of a defect or noncompliance and to remedy the defect or noncompliance. Therefore, any decision on this petition only applies to the subject equipment that Weldon no longer controlled at the time it determined that the noncompliance existed.

However, any decision on this petition does not relieve equipment distributors and dealers of the prohibitions on the sale, offer for sale, or introduction or delivery for introduction into interstate commerce of the noncompliant equipment under their control after Weldon notified them that the subject noncompliance existed.

(Authority: 49 U.S.C. 30118, 30120; delegations of authority at 49 CFR 1.95 and 501.8)

Otto G. Matheke III,

Director, Office of Vehicle Safety Compliance.

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